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Attorneys for Defendant/Counterclaim-Plaintiff:
HEE K. CHO

IN THE DISTRICT COURT OF GUAM

PIGM,

Plaintiff,

vs.

HEE K. CHO and DOES 1 through 20,

Defendants.

CIVIL CASE NO. 24-00016

**DEFENDANT'S ANSWER AND
COUNTERCLAIM**

HEE K. CHO,

Counterclaim-Plaintiff,

vs.

PIGM,

Counterclaim-Defendant.

COMES NOW Defendant HEE K. CHO (herein "Defendant"), by his counsel undersigned, and hereby submits his Answer and Counterclaim to the Complaint filed on August 1, 2024, delivered to Defendant on or about September 11, 2024 in the above-entitled action as follows:

1. Defendant admits the allegation contained in paragraph 3 of the Complaint.
2. Defendant denies generally and specifically, each and every allegation contained in the following paragraphs of the Complaint: 4, 5, 6, 8, 9, 10, 26, 27, 29, 30, 37,

43, 48, 51, 55, 62, 69, 76, 83, 90, 96, 102, 108, 114, 120, 127, 134, 141, 148, 155, 162, 169, 176, 183, 190, 197, 203, 207, 218, 222, 226, 227, and all relief requested in the Prayer for Relief.

3. Defendant states that he is without knowledge or information sufficient to allow him to form a belief as to the truth or veracity of the allegations contained in the following paragraphs of the Complaint, and based thereon, therefore denies, generally and specifically, the same. These paragraphs are: 1, 2, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 44, 45, 46, 47, 49, 50, 52, 53, 54, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 91, 92, 93, 94, 95, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 135, 136, 137, 138, 139, 140, 142, 143, 144, 145, 146, 147, 149, 150, 151, 152, 153, 154, 156, 157, 158, 159, 160, 161, 163, 164, 165, 166, 167, 168, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180, 181, 182, 184, 185, 186, 187, 188, 189, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, 204, 205, 206, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, 220, 221, 223, 224 and 225.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim against Defendant upon which relief may be granted.

2. Plaintiff misrepresents to the Court that the elements of actionable fraud exist or that the particularity of some or most facts alleged are true and correct without question when such facts are not true.

3. The Doctrine of Unclean Hands bars the relief that Plaintiff seeks against Defendant, because Plaintiff's actions, with respect to Plaintiff's dealings with Defendant, and in connection with this lawsuit, have been inequitable, unfair and dishonest.

4. Plaintiff is barred from the relief it seeks against Defendant because Plaintiff, by its actions or inactions and by its misrepresentations or silence, has caused

1 Defendant to rely upon Plaintiff's actions, inactions, representations, misrepresentations
2 or silence to the detriment of Defendant.

3 5. Plaintiff is barred from the relief it seeks against Defendant because
4 Plaintiff, notwithstanding some agreements that time is of the essence, breached its
5 agreement to pay the compensation to Defendant for the performance rendered on the
6 parties' agreement; *i.e.*, the agreement for the sale and conveyance of the Starts Golf
7 Course.

8 6. Pursuant to 20 GCA § 3227, Plaintiff is barred from enforcing specific
9 performance against Defendant.

10 7. Plaintiff has failed to join necessary and indispensable parties to this
11 lawsuit.

12 8. The damages which Plaintiff complains of in this lawsuit were solely
13 caused by Plaintiff's actions, inaction and omissions.

14 9. Plaintiff has failed to mitigate its damages.

15 10. Plaintiff is barred from the relief it seeks against Defendant by the Doctrine
16 of Waiver.

17 11. Plaintiff is barred from the relief it seeks against Defendant by the Doctrine
18 of Estoppel.

19 12. Plaintiff is barred by the Doctrine of Accord and Satisfaction.

20 13. Plaintiff has and had no valid Guam Business License at all times relevant.

21 14. Plaintiff has no standing to assert the claims made in the Complaint.

22 15. Plaintiff is not the real party in interest to this claim and dispute.

23 16. Defendant reserves his right to assert further Affirmative Defenses as may
24 appear as discovery proceeds.

1 **COUNTERCLAIM**

2 COMES NOW, Counterclaim-Plaintiff HEE K. CHO (hereinafter "Cho"), through
3 counsel undersigned, and for his Counterclaim against Counterclaim-Defendant PIGM
4 (hereinafter "PIGM"), hereby alleges as follows:

5 1. This Court has jurisdiction over this matter by virtue of 28 USC § 1332
6 diversity of citizenship of the parties.

7 2. Counterclaim-Plaintiff Cho is, and at all times relevant herein was, a Guam
8 resident and adult individual.

9 3. On information and belief, Counterclaim-Defendant PIGM has been a
10 corporation of the Republic of Korea, doing business in the Territory of Guam.

11 **FACTUAL BACKGROUND**

12 4. On or about May 7, 2022, Cho and PIGM and/or Mr. Jeong Seung Hyun
13 (herein "PIGM/Jeong") agreed to pay Cho compensation if the Starts Golf Course
14 property could be purchased and sold at or above \$19,750,000.00.

15 5. On information and belief, the Starts Golf Course sold for \$23,250,000.00.

16 6. PIGM/Jeong agreed to pay the difference to Cho of the price of
17 \$23,250,000.00 less \$19,750,000.00 and \$250,000.00 for broker's commission to Starts
18 Guam Realty, pursuant to Amendments to the Purchase and Sale Agreement; that is,
19 \$3,250,000.00 was agreed to be paid and is now due and owing to Cho.

20 7. PIGM/Jeong refused and failed to pay Cho the compensation earned by his
21 services pursuant to the Agreement.

22 8. Based on PIGM/Jeong's failure to pay Cho under the Agreement, and
23 PIGM/Jeong's interference with the Starts Golf Course Purchase and Sale Contract
24 together with Amendments, PIGM/Jeong is in breach of its Agreement.

25 9. Throughout the Complaint of PIGM, the Agreement(s) with Cho are
26 sometimes called the Business Agreement, and/or Supply Agreement, and/or
27
28

1 Indemnification Agreement, and/or Fraudulent Agreement; nevertheless, these offers
2 and acceptances of Agreements are enforceable as a matter of contract.

3 10. PIGM owes Cho no less than \$3,250,000.00.

4 **REQUEST FOR RELIEF**

5 WHEREFORE, Defendant/Counterclaim-Plaintiff Hee K. Cho requests for relief
6 as follows:

7 1. That Plaintiff PIGM takes nothing against Cho by way of its Complaint.

8 2. That Plaintiff PIGM's Complaint be dismissed with prejudice.

9 3. On Cho's Counterclaim, money damages of \$3,250,000.00 plus interest from
10 the date of breach of agreement in 2023, additional damages in an amount to be proven
11 at Trial, attorneys' fees and additional sums representing Cho's costs herein.

12 4. On Cho's Counterclaim, compensatory, consequential and incidental
13 damages in an amount to be proven at Trial, attorneys' fees and additional sums
14 representing Cho's costs herein.

15 5. For such other and further relief as the Court may deem just and proper.

16 DATED this 18th day of October, 2024.

17 **BERMAN LAW FIRM**
18 Attorneys for Defendant/
19 Counterclaim-Plaintiff
20 *HEE K. CHO*

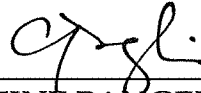
21 By: *Daniel Berman*
22 **DANIEL J. BERMAN**
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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2024, I caused a copy of the foregoing *Answer*
and Counterclaim to be served via the District Court of Guam CM/ECF Filing System:

Peter C. Perez, Esq.

DATED this 18 day of October, 2024.



CHRISTINE PANGELINAN